

**TOWN OF LYONS,
COLORADO**

ORDINANCE 1041

**AN ORDINANCE OF THE TOWN OF LYONS, COLORADO AMENDING SECTIONS OF
CHAPTER 7 OF THE TOWN MUNICIPAL CODE REGARDING MAINTENANCE OF TREES
AND OTHER VEGETATION WITHIN TOWN RIGHTS-OF-WAY**

WHEREAS, the Town of Lyons Board of Trustees ("Board") has the authority pursuant to C.R.S. § 31-15-401 and its general police powers to pass and enforce regulations which may be necessary or expedient for the promotion of the health, safety and welfare of the citizens of the Town of Lyons ("Town"); and

WHEREAS, the Town previously adopted regulations regarding the maintenance of vegetation, including trees, shrubs, grass and weeds, on properties within the Town and codified such regulations in Chapter 7 of the Lyons Municipal Code; and

WHEREAS, Town staff desires to amend such regulations to provide a mechanism to better ensure such vegetation is safely maintained within certain areas of public rights-of way, clearly delineate responsibility for the cost of such maintenance, and to assist Town staff with consistency in responding to maintenance requests; and

WHEREAS, the Board desires to amend Sections 7-2-150 and 7-4-60 of the Town Municipal Code as set forth in this Ordinance and determines that such amendments promote the health, safety and welfare of the citizens of and visitors to the Town of Lyons.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE
TOWN OF LYONS, THAT:**

Section 1. Section 7-2-150 of the Lyons Municipal Code, titled "Weeds", is hereby amended to read in full as follows:

Sec. 7-2-150. - Weeds.

Any weeds found growing in any lot or tract of land in the Town are declared a nuisance. It is unlawful for any owner, tenant or occupant of property within the Town to permit any weeds, grasses or other brush on the property to grow in height exceeding six (6) inches. It shall be the duty of the owner, tenant, or occupant of a property within the Town to provide for the landscaping and maintenance of any abutting public right-of-way area between the property line and the curb line or edge of the roadway and between the property line and center line of any alley, as necessary to comply with the requirements of this Section. Failure to maintain such area of public right-of-way shall constitute a nuisance. For purposes of this Section, the term public right-of-way includes the nontraveled portion of any street, alley, or other roadway. This Section is intended to complement Article 5 of this Chapter. Native rangeland, as defined by Section 7-5-10 of this Chapter, shall be exempt from the provisions of this Section. The owner, lessee, agent, occupant or person in possession or control exercises reasonable and routine practices to control or to eradicate, as required by Article 5, local noxious weeds and state noxious weeds on such property. The requirements of this Section shall not apply to properties owned by the Town that the Town acquired through the Community Development Block Grant

– Disaster Recovery Buyout Program or any other Town-owned property that is not intended for development.

Section 2. Section 7-4-60 of the Lyons Municipal Code, titled “Maintenance and care of trees”, is hereby amended to read as follows:

Sec. 7-4-60. - Maintenance and care of trees.

- (a) The Town shall have the right to plant, prune, maintain and remove trees, plants, shrubs, bushes and all other woody vegetation within all public rights-of-way within the Town, including all public streets, alleys, avenues, boulevards, lanes, squares and public grounds, as may be deemed necessary by the Town to ensure public health, safety and general welfare, or to preserve or enhance the symmetry and beauty of such public grounds.
- (b) Notwithstanding the foregoing, the owner of property abutting a public right-of-way shall be responsible for the cost of maintenance of all trees, shrubs, bushes and other woody vegetation, whether or not planted by the owner of such abutting property, within the public right-of way between the property line of the abutting property and the curb line or edge of the roadway and between the property line and center line of any alley. Such maintenance shall include but is not limited to cutting, trimming, spraying, removing, planting, pruning, fertilization, relocation, protection, and other maintenance and treatment as required to prevent obstruction of visibility or other dangers to public health, safety and welfare. A permit approved by the Town is required for any work done as required by this subsection. Any work done without a permit shall be subject to the penalties set forth in this Article. Notwithstanding the foregoing, the Town may administratively waive the permit requirement and related fees for work to be completed pursuant to this subsection if such work will not encroach upon the portions of the public right-of-way that are traveled by the public. Town may send notice of required maintenance to owner specifying the required maintenance work and a deadline by which such work must be completed. If owner does not complete the maintenance work by the deadline provided in the notice, then the Town shall have the right to complete or have completed the required maintenance work and invoice the owner for the cost of such work. Any trees, shrubs, bushes or other woody vegetation not maintained in accordance with this subsection or any requirements set forth in a notice of required maintenance from the Town shall constitute a nuisance pursuant to Section 7-2-120 of this Chapter. The requirements of this Section shall not apply to properties owned by the Town that the Town acquired through the Community Development Block Grant – Disaster Recovery Buyout Program or any other Town-owned property that is not intended for development.
- (c) The Town shall have the right to prune, maintain and remove trees, plants, shrubs, bushes and all other woody vegetation within public utility easements where necessary or desirable to permit the efficient use of the easement.

Section 3. Severability. Should any one or more sections or provisions of this Ordinance enacted hereby be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance, the intention being that the various sections and provisions are severable.

Section 4. Repeal. Any and all ordinances, resolutions, or codes, or parts thereof, which are in conflict or inconsistent with this ordinance are repealed, to the extent of such conflict or inconsistency exists. The repeal of any such ordinance, resolution, or code or part thereof, shall not revive any other section or part of any ordinance, resolution, or code provision. This repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance or code hereby repealed prior to this ordinance taking effect.

Section 5. Codification of Amendments. The codifier of the Town's Municipal Code, Municipal Code Corporation, is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of Section 1 and 2 of this Ordinance within the Lyons Municipal Code.

Section 6. Effective Date. This Ordinance shall become effective thirty (30) days after publication following final passage in accordance with Section 2-2-160 of the Lyons Municipal Code.

INTRODUCED AND PASSED ON FIRST READING THIS 20th DAY OF August 2018.

INTRODUCED, AMENDED, PASSED, ADOPTED AND ORDERED PUBLISHED THIS 4th DAY OF SEPTEMBER 2018.

TOWN OF LYONS, COLORADO


Barney Dreistadt, Mayor Pro Tem

